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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,794	06/21/2006	Jean Populaire	CU-4884 RJS	8445
26530	7590	11/28/2008	EXAMINER	
LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			MURPHY, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			4155	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,794	<b>Applicant(s)</b> POPULAIRE, JEAN	
	<b>Examiner</b> Timothy J. Murphy	<b>Art Unit</b> 4155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-20, 22, 23, 25, 26 and 28-33 is/are rejected.
- 7) ☒ Claim(s) 21, 24, 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/21/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/31/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. Examiner notes the pre-examination amendment made by Applicant on 6/21/2006 regarding the amended specification, abstract, and claims. Claims 1-16 are noted as cancelled. Claims 17-33 are herein examined.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 17-20, 22-23, 25-26, and 28-33 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Kaukaskie (USPN 4,539,863) in view of Lang et al (US 2001/0040074).

4. **Regarding claim 17**, Kaukaskie discloses a brake pedal device (figure 2) suitable for being actuated to effect service braking and lock braking, said brake pedal device comprising a first brake pedal element (right hand pedal 22) and a second brake pedal element (left hand pedal 38), which elements are suitable for being moved by being depressed for effecting braking (abstract, "The mountings of the pair of lock members permit one brake pedal to be depressed further than the other without effecting disengagement of the other brake pedal from its associated lock member."), depressing at least the first brake pedal element being suitable for

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causing service braking to take place (Examiner notes that service braking only requires that the first brake pedal element be capable of being locked), and the device further comprising a locking mechanism (lock member 66; figs 1-2) suitable and arranged for being activated by moving the second brake pedal (figure 1) element over a determined stroke only (stroke implied in figure 1 as being about shaft 14 in the direction of engaging teeth 36 with end 72 of lock member 64), so as to hold said second brake pedal element in a locked position for lock braking (figure 1 lower end 72 of lock member 64 is positioned for engaging teeth 36 of left hand brake pedal 38).

5. Kaukaskie does not an unlocking mechanism suitable and arranged for being activated by depressing the first brake pedal element so as to unlock the locking mechanism and so as to release the second brake pedal element.

6. Lang teaches a pedal device including an unlocking mechanism (locking mechanism 84; [0057], "The locking mechanism 84 also is configured to release the brake pedal 80 under power of the accelerator pedal 82.") suitable and arranged for being activated by depressing the first pedal element (accelerator pedal 82) so as to unlock the locking mechanism and so as to release the second brake pedal element (brake pedal 80) for the purpose of increasing the ease of user operation.

7. Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to modify Kaukaskie to include an unlocking mechanism suitable and arranged for being activated by depressing the first brake pedal element so as to unlock the locking mechanism and so as to release the second brake pedal element, as taught by Lang, for the purpose of increasing the ease of user operation.

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8. **Regarding claim 18**, Kauaskie as modified discloses a device according to claim 17, wherein the locking mechanism comprises a retaining member (lower end 74 of lock member 66; fig 1) that is stationary and a catch member (rack 54) that is connected to the second brake pedal element, said catch member being suitable and arranged for engaging with said retaining member for locking the second brake pedal element in the locked position (fig 1; column 2, lines 35-40).

9. **Regarding claim 19**, Kauaskie as modified discloses a device according to claim 18, except for including wherein the unlocking mechanism comprises a first unlocking member united with the first brake pedal element a second unlocking member united with the second brake pedal element, said first and second unlocking members being suitable and arranged for co-operating to bring the catch member into a disengagement position in which catch member is incapable of engaging with the retaining member.

10. Lang teaches an unlocking mechanism that comprises a first unlocking member (lever arm 172) united with the first pedal element (accelerator pedal 82) a second unlocking member (swing arm 112) united with the second brake pedal element (brake pedal 80), said first and second unlocking members being suitable and arranged for co-operating to bring a catch member (control arm 110) into a disengagement position in which catch member is incapable of engaging with the retaining member ([0071], "Brake pedal release using the accelerator pedal 82 occurs in similar sequence. The operator presses downwardly on the accelerator pedal 82 so that the lever arm 172 engages the kickoff arm 170. This engagement forces the swing arm 112 to swing clockwise about the pivot tube 142 to drive the control arm 110 to pivot as described above. As before, this movement unlatches the swing arm 112 from

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the control arm 110 and permits the brake pedal 80 to return to its at-rest position.”) for the purpose of increasing the ease of operation.

11. Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Kaukaskie to include wherein the unlocking mechanism comprises a first unlocking member united with the first brake pedal element a second unlocking member united with the second brake pedal element, said first and second unlocking members being suitable and arranged for co-operating to bring the catch member into a disengagement position in which catch member is incapable of engaging with the retaining member, as taught by Lang, for the purpose of increasing the ease of operation.

12. **Regarding claim 20**, Kaukaskie as modified discloses a device according to claim 19, wherein the second unlocking member is united with the catch member (fig 5 of Lang; catch member [control arm 110] is united with second unlocking member [swing arm 112]).

13. **Regarding claim 22**, Kaukaskie as modified discloses a device according to claim 20, except for including wherein the first unlocking member comprises a cam actuator and the second unlocking member comprises a cam, and the cam actuator being suitable and arranged for coming into contact with the cam when the first brake pedal element is depressed, so as to bring the catch member into the disengagement position.

14. Lang teaches wherein the first unlocking member comprises a cam actuator (cam follower 138), and the second unlocking member comprises a cam (cam 140), and the cam actuator being suitable and arranged for coming into contact with the cam when the first pedal element (accelerator pedal 82) is depressed, so as to bring the catch member into the disengagement position ([0076], “...the cam roller 138 simply moves circumferentially along the

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cam surface 140 during the initial, accelerator pedal imposed phase of the unlatching operation...”) for the purpose of providing a practical means for transferring the input from one pedal into disengaging of the other.

15. Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Kaukaskie to include wherein the first unlocking member comprises a cam actuator and the second unlocking member comprises a cam, and the cam actuator being suitable and arranged for coming into contact with the cam when the first brake pedal element is depressed, so as to bring the catch member into the disengagement position, as taught by Lang, for the purpose of providing a practical means for transferring the input from one pedal into disengaging of the other.

16. **Regarding claim 23**, Kaukaskie as modified discloses a device according to claim 20, except for including wherein the first unlocking member comprises an actuating surface, and the second unlocking member comprises a lever, and the actuating surface being suitable and arranged for coming into contact with the lever when the first brake pedal element is depressed, so as to bring the catch member into the disengagement position.

17. Lang teaches wherein the first unlocking member comprises an actuating surface (cam follower 138), and the second unlocking member comprises a lever (cam 140), and the actuating surface being suitable and arranged for coming into contact with the lever (cutout of cam 140; figure 4) when the first brake pedal element is depressed (figure 4), so as to bring the catch member into the disengagement position for the purpose of providing a practical means for transferring the input from one pedal into disengaging of the other.

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18. Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Kaukaskie to include wherein the first unlocking member comprises an actuating surface, and the second unlocking member comprises a lever, and the actuating surface being suitable and arranged for coming into contact with the lever when the first brake pedal element is depressed, so as to bring the catch member into the disengagement position, as taught by Lang, for the purpose of providing a practical means for transferring the input from one pedal into disengaging of the other.

19. **Regarding claim 25**, Kaukaskie as modified discloses a device according to claim 17, further comprising a drive member (shaft 58, tongue 30 and slot 48) suitable and arranged for causing the second brake pedal element to move with the first brake pedal element by depressing said first brake pedal element (column 3, lines 18-27, “Suffice it to say that by connecting the lock members 64 and 66 to the shaft 58 for independent movement relative to each other it is possible for the pedals 22 and 38 to be either individually or simultaneously locked and to be simultaneously unlocked.”).

20. **Regarding claim 26**, Kaukaskie as modified discloses a device according to claim 25, wherein the drive member is formed by a protruding member (slot 48) that is united with the second brake pedal element (fig 2).

21. Kaukaskie does not disclose wherein the protruding member extends into the path along which the first brake pedal element moves.

22. Lang teaches wherein a protruding member (kickoff arm 170) extends into the path along which a first pedal element (accelerator pedal 82; fig 4) moves for the purpose of ensuring a reliable connection between the protruding member and the first brake pedal element.



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23. Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Kaukaskie to include wherein the protruding member extends into the path along which the first brake pedal element moves, as taught by Lang, for the purpose of ensuring a reliable connection between the protruding member and the first brake pedal element.

24. **Regarding claim 28**, Kaukaskie as modified discloses a device according to claim 17, wherein the first and second brake pedal elements have depress surfaces (slot 48 and tongue 30) which are of complementary shape (figure 2) so that, when the first and second brake pedal elements are in a same plane, said depress surfaces form a brake pedal having a depress surface of closed outline (fig 2; left hand and right hand brake pedals form the closed outline of a rectangle.).

25. **Regarding claim 29**, Kaukaskie as modified discloses a device according to claim 28, wherein said closed outline is substantially rectangular (figure 2).

26. **Regarding claim 30**, Kaukaskie as modified discloses a device according to claim 17, wherein the first and second brake pedal elements are adjacent (fig 2).

27. **Regarding claim 31**, Kaukaskie as modified discloses a device according to claim 17, wherein the first and second brake pedal elements pivot about a same brake pedal pin (shaft 14) and axis (figure 1; axis of shaft 14).

28. **Regarding claim 32**, Kaukaskie as modified discloses a device according to claim 17, wherein the locking means have a plurality of locking positions (each tooth of rack 36 corresponds to a separate locking position; figure 1 and 2).

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29. **Regarding claim 33**, Kaukaskie as modified discloses a device according to claim 18, wherein the retaining member is engaged with a rack (54 and 36; figs 1 and 2). Kaukaskie does not disclose wherein the retaining member is provided with a rack, however, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to take the rack engagement ends (72, 74) and swap them with the racks (36, 54) of Kaukaskie since Kaukaskie would function in the exact same way and since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

***Allowable Subject Matter***

30. **Claims 21, 24, and 27 are objected to** as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

31. **Regarding claim 21**, Kaukaskie in view of Lang teaches an element (detent 120) suitable and arranged for pivoting about a pivot pin (post 136) and axis (axis of post 136; fig 5) united with the second brake pedal element (fig 5), *however* said element does not comprise the catch member or the second unlocking member. If anything, the catch member comprises the element. Also, the element is not a hook. It would not have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Kaukaskie in view of Lang to replace the swing arm 112 and the control arm 110 with a hook. To do so would render Kaukaskie in view of Lang inoperative. NOTE: USPN 2,504,258 to Elenwicz and US

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2006/0230869 to Cosby each disclose a hook related to a brake locking device, however, as described above, there is no reason for combining the references.

### *Conclusion*

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

33. US 2006/0230869 – Cosby et al (explained above)

34. USPN 2,504,258 – Elenwicz (explained above)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Murphy whose telephone number is (571)270-7021.

The examiner can normally be reached on 8:00 AM - 5:00 PM (EST) Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571)272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy J Murphy/  
Examiner, Art Unit 4155

18 November 2008

/Thu Nguyen/  
Supervisory Patent Examiner, Art Unit 4155